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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/596,983

03/04/2009

Tomas Pablo Santibanez- Viani

MA-101

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33873

7590

12/08/2010

ERIC HANSCOM

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CARLSBAD, CA 92011

EXAMINER

MALEVIC, DJURA

ART UNIT

PAPER NUMBER

2884

NOTIFICATION DATE

DELIVERY MODE

12/08/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

eric@iciplaw.com

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Office Action Summary	Application No.	Applicant(s)	
	10/596,983	SANTIBANEZ- VIANI ET AL.	
	Examiner	Art Unit	
	DJURA MALEVIC	2884	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06/30/2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>06/30/2006;09/11/2009</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 - 4, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 1, 9 and 11, the phrase "Preferably or preferentially" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim 1 recites the limitation "the main means". There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the components mention in claim 1". There is insufficient antecedent basis for this limitation in the claim.

Regarding claims 10 and 11, both claims refer to "other similar means or places". Such recitations cover a broad scope and fail to distinctly claim subject matter which is regarded as the invention.

The remaining claims are rejected based upon their dependencies.

Also, see rejection of claim 1 below for further comments.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2 and 4 – 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wuest (US Patent No. 6,426,503 B1) in view of Benjamin et al. (US Patent No. 4,975,584 A) and May et al. (US Patent 5,382,799 A).

With regards to claim 1, Wuest discloses a system and its corresponding device to measure instantly and permanently the ultraviolet solar radiation, characterized in that it further comprises a device to display the UV intensity wherein the main means to detect comprises solid state electronics elements with a detector head having a semiconductor detector with a UV filter, an amplifier, and an enclosure wherein said amplifier has standard transimpedance configuration with a low noise operational amplifier with a low sensitivity to temperature (Col. 4, Lines 1 – 35) (Figures 1 and 2).

Wuest fails to expressly disclose said display means comprises five different colored lights, for the indication of the instantaneous radiation measured and displayed in accordance with the recommendations, nomenclature, and correlation color index established by the World Health Organization (WHO), a Teflon diffuser, said enclosure is metallic and said detector head is external and is connected by means of a cable to the rest of the system.

Benjamin et al. teaches that the preferred way to display the UV intensity would include color coding (not shown) with the colors corresponding to ultraviolet radiation levels. Low ultraviolet radiation levels would possibly correspond to a green area on the

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meter, medium ultraviolet radiation levels to a yellow area on the meter, and high ultraviolet radiation levels to a red area on the meter 18. The range of ultraviolet radiation level displayed is 290 to 400 nanometers, even though the known damaging range of ultraviolet radiation is 290 to 320 nanometers. Benjamin further teaches that a detector head is external and is connected by means of a cable to the rest of the UV detection system is known and useful (Figure 9). In view of the utility, the preferred configuration which provides simple, readily interpretable, information on the potential overexposure to damaging ultraviolet rays. As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Wuest to include the teachings such as that taught by Benjamin.

May shows that Teflon diffusers are well known and conventionally used in UV detection systems to improve detection efficiency (See Figure 2, element 26). In view of the utility, to improve detection efficiency, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Wuest to include the teachings such as that taught by May.

With regards to the enclosure comprised of a metallic, the examiner takes official notice that metallic enclosures or housings are well known and conventionally used in the radiation art in order to protect the sensory from unwanted noises or signals. As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Wuest to include the teachings such as is well known, i.e., a metallic housing, in order to protect the detection from unwanted noises.

Additionally, it would have been considered an obvious matter of design choice involving routine skill in the art to include parameters established by the World Health Organization in order to go along with identifiable and known standards. As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Wuest to include the standards such as that taught by WHO in order to go along with the known standards.

Notice that the examiner appreciates that the recommendations and color indexes established by the WHO as claimed are defined by the table listed on page 13 of applicants' specification.

With regards to claim 2, Wuest modified discloses means to detect a signal that contains ultraviolet radiation, means for the processing of this signal, and means for the display of this processed signal to be visible from a distance in a place of public or private access (See Figure 1).

With regards to claim 4, Wuest discloses that the means to detect and process the information or data are solid state electronic elements (Col. 4, Lines 1 – 4).

With regards to claim 5, Wuest modified discloses the claimed invention according to claim 1, absent some degree of criticality the recitations of a received signal which converts it to a display signal adequate to show the UV information in a public or private place by means of public ads, poster advertising, road boards, billboards, such that is clearly visible from a distance is considered only a routine matter of design choice involving ordinary skill in the art. Notice that it is well known to display useful information (i.e., time, temperature, news flashes, sports scores and UV indexes)

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to people in billiards or some sort road board and the like in order to inform people of there surroundings or news breaks. As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Wuest to include the teachings such as is well known and expressed above in order to inform people of there surroundings.

With regards to claim 6, Wuest modified discloses a display system 16 is luminous (i.e., a LCD screen), it can be located in any place of public or private access and it also can contain publicity or advertising.

With regards to claim 7, Wuest discloses the detector head has analog electronics 13 and a circuit 14 for analog to digital conversion.

With regards to claims 8 -11, the rejection to claim 1 applies to these claims.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wuest , Benjamin and May in view of Yagi (US Pub. No. 2006/0076501 A1).

With regards to claim 3, Wuest modified discloses the claimed invention according to claim 1, absent some degree of criticality that the total spectral response corresponds to an erythema action curve is considered only a matter of routine design choice. Yagi shows that UV indexes are typically build around an ertythem curve 102 (Figure 4). As such, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Wuest to include the teachings such as that taught by Yagi in order to enhance the UV detection.

Conclusion

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DJURA MALEVIC whose telephone number is 571.272.5975. The examiner can normally be reached on Monday - Friday between 9:30am and 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on 571.272.2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Unit 2884

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